

JOHN T. ARTZ,  
Plaintiff,  
vs.  
ARMSTRONG FLOORING, INC.,  
Defendant.

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Cause No.: 6:17-CV-03352-RK

COMES NOW Defendant Armstrong Flooring, Inc. (“AFI”), pursuant to Federal Rule of Civil Procedure 56, by and through its undersigned counsel, and moves for summary judgment on all six counts of Plaintiff John T. Artz’s (“Artz”) First Amended Complaint. Specifically, Artz alleges (I) discrimination and discharge in violation of the Employment Retirement Income Security Act of 1974, 29 U.S.C. §§ 101, 1132, 1140 (“ERISA”), (II) interference with rights protected by the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.* (“FMLA”), (III) retaliation and discharge for exercising rights protected by the FMLA, (IV) discrimination and wrongful discharge in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq.* (“ADA”), (V) discrimination and wrongful discharge in violation of the Missouri Human Rights Act, MO. REV. STAT. § 213.010, *et seq.* (“MHRA”), (VI) associational ADA discrimination, and (VII) associational MHRA discrimination, for his termination.

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handling an employee's positive drug test including a failure to notify Ms. Williams and the plant manager in a timely manner and going to a local hospital to try to track down the employee's doctor, and performance deficiencies identified by Ms. Williams in his performance reviews concerning a lack of trust, respect, and rapport with his plant management, whom Artz supported. Artz's claims fail because Artz cannot establish a causal connection between the purported protected rights and actions and AFI's decision to terminate Artz. Artz's supervisor made the decision to terminate him. Fatally, Artz has no independent knowledge or direct evidence to support his theory Ms. Williams knew of his actual medical costs, much less that it motivated her termination decision. In fact, Ms. Williams had no knowledge of Artz's actual medical costs and did not even have access to it.

Additionally, as a matter of law, Artz's recovery should be barred, in whole, or in part, by the doctrine of after-acquired evidence because during Artz's deposition he admitted, for the first time, that he violated company policy and federal law in the course of his employment when he forwarded confidential and HIPAA-protected medical information regarding other AFI employees to his personal e-mail account. This conduct would have warranted Artz's termination, had he still been employed by AFI when the conduct was discovered.

Defendant files simultaneously herewith, and incorporates by reference herein, its Suggestions in Support of its Motion for Summary Judgment, explaining, in detail, why it is entitled to judgment as a matter of law with respect to all counts of Plaintiff's First Amended Complaint.

Respectfully submitted,

/s/ Joseph M. Wientge, Jr.

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Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of May, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system to be served by operation of the Court's electronic filing system upon the following:

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